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May 23, 2007

**VIA OVERNIGHT MAIL AND
FACSIMILE (202) 219-3923**

Tracey L. Ligon, Esq.
Federal Election Commission
Office of General Counsel
999 E Street, NW
Washington, DC 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

2007 JUN -6 P 1:29

RE MUR 5871
James Mermis and Kimberly Mermis

Dear Ms. Ligon:

I am writing in follow up to my earlier correspondence of May 9, 2007 in regard to the above-stated MUR and the parties concerned therein. In that correspondence, I requested a pre-probable cause conciliation pursuant to 11 C.F.R. § 111.18(d) for each of the parties stated in the above MUR. Based upon the respective parties' involvement and the fact that there have been no prior or subsequent claims or violations against either of the parties, I believe that a pre-probable cause conciliation is an appropriate and effective manner with which to resolve this outstanding MUR.

I have attached for your review, an Affidavit from Kimberly Mermis and James Mermis outlining their respective knowledge and involvement in the incident which lead to the instant MUR. The Affidavits speak for themselves in regard to each of my clients' respective involvement. As you will notice, the involvement of Mrs. Mermis was significantly less (in fact none at all) than that of Mr. Mermis. In fact, Mrs. Mermis' only involvement was to attend the luncheon itself for Bush/Cheney '04, Inc.

Mrs. Mermis was not personally invited to the Bush/Cheney '04, Inc. fundraiser at issue and did not complete the donor card. The donor card was filled out by Mr. Mermis, along with his donor card. Both parties were excited by the fact that they had an opportunity to see President Bush at the luncheon and took this opportunity to do so.

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Both donor cards were sent in by Mr. Mermis though Mrs. Mermis may have signed her donor card. Mr. Mermis paid for the campaign contributions on his personal credit card and not by check or other method. We will be glad to obtain a copy of the credit card receipt that was prepared for Mr. Mermis at the time of his payment for Bush/Cheney '04, Inc. It is important to note that Mrs. Mermis was unaware of how the payment was made and was unaware of any circumstances with the exception of the date and time of the luncheon itself, of which she did attend.

Mr. Mermis, who had previously worked in State government, had left public work to go into business for himself. As a result of being in business in the private sector, he often had meetings, luncheons, dinners and/or other social events which he needed to attend to both enhance his business and to meet and work with clients. In regard to the instant situation, Mr. Mermis had been approached by Doug Talbott who asked if he and his wife would like tickets to attend the Bush/Cheney fundraiser. Donor cards were received by Mr. Mermis for completion and he returned the cards along with his credit card payment to the appropriate source for both reservation and confirmation of attendance at the event.

Mr. Mermis did in fact receive a check in a lesser amount than he expended for the tickets to the Bush/Cheney '04, LLC luncheon/fundraiser. Doug Talbott wrote a check to Mr. Mermis in the amount of \$3,900.00. This check was later to be determined as a reimbursement check for the funds that had been expended by Mr. Mermis for Bush/Cheney '04, Inc. At no time was this transaction requested to be treated by a loan, loan reimbursement or an inappropriate payment to either Mr. Mermis or for Mr. Mermis' prior payment to Bush/Cheney '04, Inc.

However, Mr. Mermis discovered that the funds provided to him by Mr. Talbott in fact had come from Tom Noe and were handled improperly in regard to the contributions paid to Bush/Cheney '04, Inc. Mr. Mermis was alerted to this fact by the FBI, Inspector General of the State of Ohio and the Ohio Ethics Commission. He immediately volunteered to meet with the agencies for a complete debriefing of the circumstances surrounding this incident and other matters pertaining to both Mr. Noe and others in regard to Bush/Cheney '04 and additional matters.

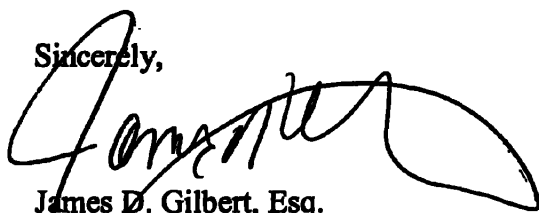
Mr. Mermis, along with counsel, met on several occasions with the FBI, the Inspector General, the Ethics Commission and members of the task force that were investigating Mr. Noe and other matters at the time. Mr. Mermis was completely and fully truthful in regard to his involvement and was forth coming with any information that he had knowledge of, pursuant to inquiries made by the FBI, the Inspector General, the Ethics Commission and the task force.

Ultimately, upon completion of the investigation by the above-stated agencies, numerous people were charged criminally as a result of their activity with Bush/Cheney '04, Inc. and other related matters. Neither Mr. Mermis nor Mrs. Mermis were ever charged criminally in regard to any of their activities pertaining to the instant investigation. Further, Mr. Mermis was not charged with any ethical violations by the State of Ohio as a result of his minimal involvement and his active participation in the ongoing investigation.

We will be glad to provide any additional information and/or documents for your review upon request. Please contact me with any additional questions or requests. Thank you for your consideration and assistance in reviewing this matter.

Thank you for your assistance and cooperation in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'James D. Gilbert', with a large, sweeping loop at the end.

James D. Gilbert, Esq.
JDG/tc

c: Mr. James Mermis
Mrs. Kimberly Mermis

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AFFIDAVIT OF KIMBERLY A. MERMIS

State Of Ohio }
 } ss:
 County of Franklin }

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 OFFICE OF GENERAL
 COUNSEL

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I, Kimberly A. Mermis, being first duly cautioned and sworn according to law, hereby truthfully and accurately state the following:

1. I was contacted by my husband (James Mermis) to inquire as to whether I was interested in attending a fundraiser for President Bush in the fall of 2003.

2. Based upon the opportunity to be at a luncheon with President Bush and hear the President of the United States speak, I gladly accepted the invitation.

3. I may have signed a donor card, however, I do not recall at this time.

4. I was unaware of the amount of the tickets to the fundraiser or as to the funding source of the fundraiser with the exception of becoming aware of the value at a later date.

5. I personally did not pay for the fundraiser nor did I receive any funds from anyone in regard to this fundraiser for reimbursement. Further, I was never asked to treat the funds involved as a loan from Tom Noe. Additionally, I never spoke with Tom Noe or Doug Talbott about the Bush/Cheney '04 luncheon.

FURTHER AFFIANT SAYETH NAUGHT.


 Kimberly A. Mermis

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STATE OF OHIO }
 }
COUNTY OF FRANKLIN } ss:

Sworn to before me and subscribed in my presence this 22nd day of May, 2007.


Notary Public

JAMES D. GILBERT
Attorney - At - Law
Notary Public, State of Ohio
My Commission Has No Expiration Date
Sec. 147.03 R.C.

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AFFIDAVIT OF JAMES J. MERMIS

State Of Ohio }
 }
County of Franklin }

ss:

I, James J. Mermis, being first duly cautioned and sworn according to law, hereby truthfully and accurately state the following:

1. I am in private business for myself with a company by the name of Capital Consulting, LLC.

2. As a result of my business, I often met with potential clients or business associates for political and non-political events, either by request or by necessity, as part of my professional practice.

3. In the fall of 2003, I was asked if I would like to attend a Bush fundraiser along with my wife. It was represented to me that this would help benefit a friend and business acquaintance (Tom Noe).

4. Subsequently, I was forwarded donor cards and information about the fundraiser, which I was required to fill out on behalf of both myself and my wife, Kimberly Mermis. When the donor cards were returned, via fax, I used my personal credit card for payment of the two tickets, which totaled \$4,000.00.

5. I did in fact attend the event along with my wife, Kimberly Mermis.

6. I did receive a check from Doug Talbott in the amount of \$3,900.00. It was stated to me that this was in appreciation for the efforts on behalf of Bush/Cheney and Tom Noe.

7. At no time did I ever question nor inquire as to whether this was to be treated as a reimbursement or a gift in regard to how it would be reflected upon by the Election Commission in regard to a political contribution.

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8. I had never previously nor since received reimbursement or monies from any other source for funds that I have personally paid for to a political campaign.

9. When it was made known to me that in fact this was a campaign violation, I took proactive steps to speak with both the Ethics Commission and the Inspector General of the State of Ohio.

10. Along with counsel, I met on two separate occasions, with the Inspector General of the State of Ohio, the Ethics Commission and members of the investigatory task force that was investigating Tom Noe's campaign contributions and other matters not known to me.

11. I cooperated fully and truthfully with all of the parties at my debriefing. Additionally, I made myself available for any further questions and/or requests by the respective agencies.

12. I have never been charged criminally nor civilly with the exception of the instant investigation in regard to any of these activities.

13. I am aware of numerous other people that were involved in this campaign contribution scheme (as it later become known), but was not actively involved with them nor had any knowledge of the plan at the time that took place.

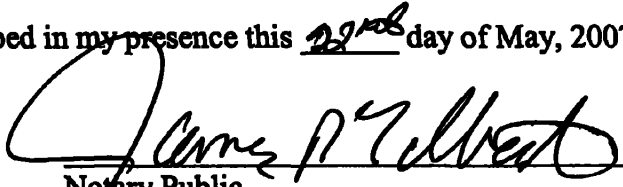
14. Subsequent to my interview with the above-stated agencies, I had little or no contact with any of the parties that were involved in this political campaign incident.

FURTHER AFFIANT SAYETH NAUGHT.


James J. Merris

STATE OF OHIO }
 }
 } ss:
COUNTY OF FRANKLIN }

Sworn to before me and subscribed in my presence this 22nd day of May, 2007.


Notary Public

JAMES D. GILBERT
Attorney - At - Law
Notary Public, State of Ohio
My Commission Has No Expiration Date
Sec. 147.03 R.C.

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